

Cox Met First Crisis Early

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During a break in his testimony before the Senate Judiciary Committee Monday, special Watergate prosecutor-to-be Archibald Cox found himself confronted by an aggressive lawyer wagging a finger at his chest.

Charles W. Morgan Jr., the attorney, was serving notice that he and his clients, the Association of State Democratic Chairmen, would remain deeply suspicious of the Watergate investigation unless Cox got rid of the government prosecutors who have been handling it for almost a year now.

"As long as any of the present prosecuting staff continues in the investigation," Morgan declared on behalf of the association whose phone was the only one successfully bugged in the main Watergate event, "we will not consider it independent or untainted."

Cox drew back on his Harvard University law school reserve, stiffened his 6-foot-2-inch frame, and told Morgan as genially as he could that he could hardly make a decision about the prosecutors.

Meanwhile, at the U. S. courthouse that day, sources close to the prosecutors—Earl Silbert, Seymour Glanzer and Donald Campbell—were telling newsmen of their dissatisfaction.

One of the sources protested that the impending appointment of a special

Watergate prosecutor had "effectively paralyzed" any fresh indictments in the case—even though more witnesses admittedly had still to be called before any indictments could be returned.

Archibald Cox was facing his first crisis as special Watergate prosecutor before he'd even gotten the job.

The pressures on behalf of Silbert and his colleagues increased Tuesday with widespread reports that they were about to resign from the case. Cox headed that off by calling U. S. Attorney Harold H. Titus, their up-to-now nominal boss, and arranging a meeting with the local prosecutors.

Titus ended the suspense yesterday by announcing that Silbert & Co. would remain on the job, at "Professor Cox's request." Titus said that Cox "urged us, in view of the important public work we were doing, that it was in the public interest that we carry on the development of the case."

At least several Democratic members of the Senate Judiciary Committee suspect that far more is involved than the sensibilities of Silbert, Glanzer and Campbell—a team that has been widely criticized for failing to pursue more vigorously signs of a cover-up in last year's Watergate investigation.

At stake, as Senate skeptics see it, is the question of whether Cox is really to run the show—as incoming At-

torney General Elliot L. Richardson has promised—or whether he is being jockeyed at the outset into a more distant and relatively innocuous supervisory role, with Justice Department regulars still calling the shots.

"It's a play to keep Cox in line," one source asserted before yesterday's announcement. "Morgan has an excellent case in calling for a totally new staff. But he comes on too strong. He's turned off a lot of people and I'm afraid he's turned off Archie."

Morgan has had difficulty in getting a hearing. He waited around the Senate Judiciary hearings on Richardson's nomination for days with a prepared statement urging that the special prosecutor make "a clean sweep of the present prosecution staff" and a complete review of the Watergate grand jury testimony.

The hearings ended without Morgan's being called. He submitted his statement for the record, asserting that "whether anyone desires to say it out loud or not, Mr. Nixon is a suspect—a prime suspect—in this case."

A former solicitor general but admittedly no expert in criminal law, Cox, 61, said earlier this week that he was just not familiar enough with Watergate and related cases to make any decisions yet on who should prosecute what.

He has also still to pick a trial-savvy deputy to help

guide him through the probe, which he had promised to pursue even if it leads to implication of the President himself. Meanwhile, Silbert and his colleagues are predicting that they can wind up their main Watergate investigation in 60 to 90 days if they are permitted simply to advise Cox of their moves as they make them.

Morgan, for one, has been outspoken in contending that this would make Cox no more than the "special supervising prosecutor" that President Nixon apparently envisioned April 30 before congressional pressures forced the production of an independent charter.

Cox has vowed to implement it rigorously, but the closest he has come to prosecuting a case himself in recent years was his service in 1972 for a special joint Massachusetts legislative investigating committee assigned to consider the impeachment of two judges involved in charges of bribery and sentence-fixing.

The 21-member committee, with Cox as special counsel, held no public hearings, called no witnesses and hired no investigators. Its final report recommended no further action beyond the steps already taken by the state supreme court—censure of one judge, who remains on the bench, and disbarment of another, who resigned as a result.

Cox and 20 of the committee members felt that the evidence, consisting largely of 3,100 pages of testimony before the state supreme court, justified no other course.



Associated Press

Archibald Cox, right, meets with Harvard colleague Philip Heymann, who will aid him in handling the Watergate case.